

Making Good Choices for Children

Custody Symposium Features Trends, Decision-making Models

"Have the reforms we have instituted had a positive effect on the quality of decisions that are made on behalf of children? Do the services we provide help parents better understand the needs of their children? Are parents more often choosing to make important decisions themselves? When the courts make custody and visitation decisions, are we making the best decision possible? Are there steps we could take in our state to ensure that the most appropriate decision is being made in all cases—to institutionalize quality decision-making in these cases?"

Hon. Robert M. Bell, Chief Judge
Maryland Court of Appeals

With these words, Court of Appeals Chief Judge Robert M. Bell welcomed participants to the Fall Family Law Symposium, *Custody Decision-making in Maryland*. The evening symposium, hosted by the University of Maryland School of Law in its Ceremonial Court Room, was attended by approximately 90 judges, family law practitioners, court staff and academicians. The agenda featured a variety of presentations designed to stimulate a statewide conversation on how best to ensure quality decision-making in cases involving children.

University of Maryland professor Jana Singer summarized the American Law Institute's (ALI) "approximation standard" for allocating custodial responsibility for children. The standard has been proposed by ALI as a basis for statutory reform. It suggests replacing the

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JUSTICE FINDS A NEW HOME

New Juvenile Justice Center Opens in Baltimore

A new facility in Baltimore will permit courts, agencies and law enforcement entities to collaborate more effectively in serving the city's youth. In September 2003, the Baltimore City Juvenile Justice Center (BCJJC), a new 244,000-square-foot facility in downtown Baltimore, accepted its first detained youth. Shortly thereafter, during the weekend of November 8 and 9, the Juvenile Division of the Circuit Court for Baltimore City moved into the center. The Juvenile Division includes space for three juvenile judges, 10 juvenile masters and juvenile staff for the clerk's office. The BCJJC is now fully operational under the leadership of Phyllis D. K. Hildreth, Esq., Managing Director.

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The New Baltimore City Juvenile Justice Center

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Publication Note: While *Family Matters* will continue its regular publication schedule, producing four newsletters per year in February, May, August and November, we have advanced the “season” to keep it relevant until the next issue comes out. Hence, while this issue remains Volume 4, No. 1, it is now the “Spring 2004” issue.

family matters

We welcome your comments and contributions.

Please call or write: Pamela Cardullo Ortiz, Exec. Director

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www.courts.state.md.us/family

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current “best interest of the child” standard with one that relies less on judicial discretion and uses as its model the past caretaking functions and responsibilities of parents prior to separation. Singer also explicated the “parenting plan” standards proposed by ALI which envision a mechanism for involving parents directly in making decisions regarding custodial responsibility.

Rebecca Bainum of the Women’s Law Center presented preliminary data on custody decision-making trends in Maryland. The data was gathered as part of an intensive case file review of over 1,800 Maryland divorce and custody cases from 1999. The data suggests that, for example, that 48% of custody decisions result in some type of joint custody award, with either legal or physical custody being shared by both parents. The report also suggests that regardless of the final custody outcome, a significant majority of cases are being decided by the parties themselves, rather than by the court. Decisions made by agreement rather than by judicial intervention also result in significantly less subsequent litigation. The information presented was part of a two-pronged study conducted by the Women’s Law Center to look at

custody decisions and financial distribution decisions in Maryland divorce cases.

After a presentation on Maryland family court reform efforts by Pamela Cardullo Ortiz, Executive Director, Family Administration at the Administrative Office of the Courts, Professor Jane Murphy of the University of Baltimore School of Law led participants in a facilitated group discussion. Participants discussed the virtues and drawbacks of statutory reform, and other options for ensuring how best to ensure quality decisions are being made for Maryland’s children.

In addition to the University of Maryland, the event was co-sponsored by the University of Baltimore School of Law, the Custody Subcommittee of the Maryland Judicial Conference Committee on Family Law, the Administrative Office of the Courts, the Woodrow Wilson International Center for Scholars, Division of United States Studies, and the law firm of Butler, McKeon and Associates. Transcripts of the proceedings will be prepared by the Woodrow Wilson International Center and will be made available at a later date.

New Juvenile Justice Center Opens, cont. from p. 1

The BCJJC is the only facility of its kind in Maryland and one of few such facilities in the country. It is located at 300 N. Gay Street in East Baltimore.

In addition to the Department of Juvenile Services Community Justice Offices, the Center includes a 144-bed detention center, the Juvenile Division of the Circuit Court for Baltimore City, the juvenile divisions of the State’s Attorney Office and the Public Defender’s Offices, representatives of the Baltimore City Sheriff’s Office and the Baltimore City Police Department, and the legal services offices of the Department of Social Services. The facility will host a combined intergovernmental workforce of 800 employees. BCJJC has a comprehensive medical assessment and treatment suite, academic facilities including six fully-equipped classrooms, a state-of-the-art juvenile intake assessment division, and modern secure residential housing for children in custody awaiting adjudication or disposition of delinquency cases. Younger detainees are diverted into shelter care or one of the pilot detention alternative programs.



Reading materials in the Child Waiting Area at the new BCJJC.

When asked what they liked best about the new center, Juvenile Court judge-in-charge, Judge Martin P. Welch and Ms. Hildreth commented that “when you place young people in a pleasant and caring environment, operated by a professional and caring staff, you can fulfill the BCJJC mission of rehabilitating juveniles and mending families.”

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Family Division/ Family Services Program Annual Report for 2003

Copies of the *Annual Report of the Maryland Circuit Court Family Divisions and Family Services Programs - Fiscal Year 2003* are now available online. To obtain a copy see: www.courts.state.md.us/family/annualreport03.pdf. The report, released December 1, 2003, features case management statistics, descriptive statistics on various services offered through the courts, program demographics, and information reflecting on Maryland court performance in light of the *Performance Standards and Measures for Maryland's Family Divisions*.

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p. 5.**

DV Database Moving Forward

JIS Awarded Grant to Improve DV Information System

A recent grant award will permit Judicial Information Systems (JIS) to continue making progress in the development of a web-enabled, centralized database that integrates domestic violence orders and case management information for the entire state.

JIS was awarded a Technical Assistance Grant of \$28,000 by the State Justice Institute. The grant will be used to retain a systems architect consultant to further the project. Some additional funds for the project have been provided by the Department of Family Administration. Other aspects of the project continue to move forward. The District Court Domestic Violence Wizard roll out was completed on schedule on October 27. Congratulations to the installation team, the Micro-programming team, the Micro-technical services team, as well as team members from District Court headquarters.

The roll out of Interim Circuit Court DV forms automation for UCS continues with success. This product was installed in Talbot and Harford counties and is now in place in Baltimore City, Kent, Garrett and Calvert counties, as well. The next counties scheduled to have the product installed are Carroll, Worcester, Somerset, St. Mary's and Wicomico.

The District Court Central Domestic Violence Database, the portion of the project that will consolidate data from 35 separate District Court DV Oracle databases into one central District Court DV database, is also under development. JIS will demonstrate the project to District Court project sponsors in January 2004.

Statewide Team Will Promote Dependency Drug Courts

A new initiative will assist Maryland courts in responding to the needs of families where substance abuse has been a contributing factor in the abuse or neglect of a child.

The Department of Family Administration in collaboration with the Drug Treatment Court Commission has developed a State Dependency Drug Court Team. The team was formed to participate in a Drug Court Planning Initiative training series sponsored by the National Drug Court Institute (NDCI) and the Bureau of Justice Assistance (BJA). The State team, a group of 10 legal and child welfare professionals, will participate in a three-part training series designed to assist them in planning and implementing family dependency drug courts.

The overall goal of dependency drug court is to improve systems practice in child abuse and neglect cases involving significant alcohol and substance abuse. This is done by effectively integrating substance abuse treatment, mandatory drug testing, sanctions and incentives, and transitional services in a judicially-supervised court setting.

The state team will serve an administrative role by conducting trainings, developing state dependency drug court guidelines, promoting and advocating for the development of dependency drug courts in local jurisdictions, and developing resources. The team will have the opportunity to participate in a three-part training series along with other teams from around the United States. The team will travel to Florida (Pensacola and Jacksonville) as well as Kansas City, MO. The State team is very excited to have this opportunity and looks forward to further serving the State by improving the courts' service to families and children.



Maryland's Statewide Dependence Drug Court Team

The Honorable David Young, Circuit Court for Baltimore City	Judge
Ron Zuskin, University of Maryland, School of Social Work	Treatment Representative
Jai Roberts, Department of Social Services	Child Welfare Representative
James Ruffin, Department of Human Resources	Agency Attorney
Robin Zoll, Office of the Public Defender	Parent's Attorney
Carolyn Cordial, Court Appointed Special Advocate (C.A.S.A.)	CASA Representative
Darlene Wakefield, Wakefield and Associates	Child's Attorney
Diane DePanfilis, University of Maryland, School of Social Work	Research & Evaluation Expert
Gray Barton, Administrative Office of the Courts (AOC), Drug Treatment Court Commission	Co-coordinator
Tracy Watkins-Tribbitt, AOC's Foster Care Court Improvement	Co-coordinator

First Statewide Empirical Study Exploring Custody and Financial Distribution in Divorce in Maryland

By Rebecca Saybolt Bainum, Women’s Law Center, Towson

A new study sheds light on the types of financial and child access decisions that result when parents divorce in Maryland.

The Women’s Law Center of Maryland, Inc. (WLC), a non-profit organization established in 1970, has just completed the first large-scale statistical study of custody and the financial outcomes of divorce in the Maryland. The report, entitled *Joint Research Project: Custody and Financial Distribution in Divorce in Maryland*, presents findings from an empirical study of custody and divorce cases in the state filed during Fiscal Year 1999. While other studies have explored family law issues, none have compiled as much empirical data. The report will offer a historical look at Maryland divorce and custody law, a description of the research methodology, a detailed analysis of the findings, and policy recommendations. At the time this article went to press, a final version of the report was due out in February.

This research initiative comes after years of collecting, through WLC’s two family law hotlines, stories from men and women about custody and divorce outcomes, representation (or the lack of it), the legal process and court services. In addition, the issue of joint custody—who gets it, who should get it and how often—is a regular issue in Maryland’s state legislature. Little, if any, statewide research had been done to study custody awards in Maryland, to explore how property is really divided during divorce, or to investigate whether there is a connection between property distribution and custody outcomes. To address this, WLC designed a study to explore how custody and financial decisions are made in the state.

The findings are based on the analysis of an extensive dataset, which covers a random sampling of all divorce and custody cases filed in Maryland in

Fiscal Year 1999. There were 2,573 cases reviewed, of which 726 were dismissed before judgment (or otherwise not available for review), leaving a total of 1,847 cases in the sample.

The report will explore a range of questions about custody and divorce: What are the most prevalent custody outcomes? How do those outcomes compare to the requests from litigants? How are custody decisions being made? By whom? How well do the custody decisions hold up? How are financial assets being distributed in divorce? What factors impact the distribution? What is the interplay among

various financial awards (alimony, monetary award, share of pension or retirement)? To test whether there is an implicit relationship between “kids and money” the report will also explore whether and how custody outcomes are related to financial distribution.

A Sneak Preview Of Some Of The Custody Findings. A comparison of custody outcomes by category provides insight into whether or not, on a more general level, divorced parents are sharing custody in Maryland. Combining the three forms of “joint custody” (joint legal with

physical to mother, joint legal with physical to father and joint legal and physical) revealed that some form of joint custody was the outcome in nearly 50% of the cases (48%). Combining the two forms of sole custody (sole legal and physical to mother and sole legal and physical to father), revealed that some form of sole custody was the outcome in 45% of cases. Parents are sharing some form of decision-making in Maryland in nearly half of the cases.

When complete, copies of the report will be available from the WLC by calling (410) 321-8761. The report will also be available online at www.wlcmd.org.

PROFILE	
Joint research project: An exploration of custody and divorce in Maryland, FY99	
Number of cases reviewed	2,573
Dismissed or unavailable cases	726
Number of cases analyzed	1,847
In Baltimore Metropolitan area	983
Cases with children	1,687
Divorce cases	1,022
Woman as plaintiff	1,127
Man as plaintiff	720
Third party custody cases	39

Happy Adoption Day!

BALTIMORE TRADITION CELEBRATES NATIONAL ADOPTION AWARENESS MONTH

Lots of kids in Baltimore share a common “Adoption Day” thanks to an annual tradition created to celebrate National Adoption Awareness Month. This past November, 58 children were welcomed into their new families on a single day when the Circuit Court for Baltimore City held its annual Adoption Day event.

There are hundreds of thousands of children in the nation’s foster care system awaiting adoption. These children are some of the most vulnerable, many of whom come from abusive and neglectful backgrounds. In 1976, Massachusetts proclaimed a National Adoption Week to focus attention on the plight of these children and the need for permanent homes.

A number of other states followed Massachusetts’ lead and created their own Adoption Week celebrations. Across the country, National Adoption Week initiatives led to the inception of National Adoption Month in 1990. November has been selected as National Adoption Awareness Month. During November, states, communities, public and private organizations, businesses and individuals focus their attention on the needs of foster children awaiting adoption with activities and observances such as recognition dinners, public awareness initiatives and recruitment campaigns.

One special celebration during National Adoption Awareness Month is National Adoption Day. This year National Adoption Day was celebrated on Saturday, November 22, 2003. National Adoption Day is an extraordinary volunteer effort to finalize thousands of adoptions in a single day across the country. Children, parents, juvenile courts, foster care agencies, adoption units, volunteer lawyers, adoption professionals and child advocates all come together for a single day of multiple adoptions. This year’s Adoption Day was the fourth annual day

coordinated by the Alliance for Children’s Rights in conjunction with the Dave Thomas Foundation for Adoption and the

Freddie Mac Foundation.

Baltimore City has long taken up the cause of a special event to celebrate the finalization of multiple adoptions in a single day. Judge Joseph H. H.

Kaplan of the Baltimore City Circuit Court has been presiding over Adoption Day for the past 12 years. The celebration is held every year on the Wednesday preceding Thanksgiving. This year the celebration was moved to the new Baltimore City Juvenile Justice Center, which opened this Fall. Families were scheduled for adoption proceedings in three large groups.

One by one, each family was called up to the bench and Judge Kaplan delivered the happy news that the adoption had been finalized. By morning’s end, 58 foster care children had new permanent families. Judge Kaplan estimates that in the 12 years he has presided over adoptions in Baltimore City, he has handled perhaps over 3,000 adoptions, with a large number of them being children from the foster care system. This event helps to focus even greater attention on all those children awaiting a permanent home that are in the foster care system in Baltimore City while highlighting some of the success stories.

Background information for this article came from www.adoption.com and www.nationaladoptionday.org.



Both photos: Judge Joseph H. H. Kaplan with Adoption Day 2003 participants



Abuser Intervention Programs: A Brief Overview

This article was prepared with the assistance of Carol Doctrow, Attorney General's and Lt. Governor's Family Violence Council.

Abuser intervention programs (AIPs) are programs designed to treat perpetrators of intimate partner abuse. AIPs offer specialized interventions which help offenders understand their use of power and the range of abusive and violent behaviors they use to control their intimate partners, and the effects that this behavior has on their partners, their children, and the community. Program participants also learn the insight and skills that they need to change their behavior and avoid further involvement with the justice system.

Abuser intervention is key in reducing and preventing domestic violence and breaking the cycle of violence between generations. AIPs hold abusers accountable, reduce perpetrator recidivism, enhance victim safety, and promote a coordinated community response to domestic violence. Judges may refer perpetrators to AIP programs.

The Attorney General's and Lt. Governor's Family Violence Council, building on work initially sponsored by the Maryland Network Against Domestic Violence, developed the *Operational Guidelines for Domestic Violence Abuser Intervention Programs in Maryland* in 1996. The Council oversees a self-certification process for AIPs. The Maryland *Guidelines* are voluntary and do not prescribe treatment modalities, but, rather, establish minimum procedural requirements, such as victim/partner contact, full assessment of the offender, and close

communication with referring agencies about the offender's compliance with the court order or referral. These *Guidelines* promote victim safety and program accountability, and provide some assurance to courts and other referring organizations that the programs are sound. Programs interested in receiving court-ordered referrals agree to voluntarily self-certify their compliance with the *Guidelines*. A list of programs that completed the self-certification process was compiled by the Council and is included in the *Judge's Manual on Domestic Violence* and in the *Clerk's Manual on Domestic Violence*.

AIPs are different from anger management programs. Anger management programs are interventions for perpetrators of violence against strangers, acquaintances, or others who are not intimate partners. Anger management programs focus on anger control and avoiding outbursts of anger that lead to violence. AIPs focus on power and control issues in the intimate relationship, which are generally believed to be at the root of abuse directed at intimate partners. AIPs address control issues that are unique to intimate partner abuse. In Maryland there are no guidelines for anger management programs, and there is no voluntary system to self-certify or to monitor such programs.

For further information see www.oag.state.md.us/family. Questions about AIPs in Maryland may be directed to Carol Doctrow, Research Associate, Attorney General's and Lt. Governor's Family Violence Council at (410) 576-6411 or cdoctrow@oag.state.md.us.



Your Money Matters

New Guide Promotes Women's Financial Independence

A newly-published book advises women from all walks of life to seek and maintain financial independence. *Your Money Matters: A Guide to Financial Independence for Women* was written by Maryland attorney Jeannette Karpay, and published by the Women's Law Center of Maryland. Practical and pithy, the book includes chapters on seeking financial self-sufficiency, advice on maintaining financial independence when "joining forces with others" whether through marriage or partnership, "when things go bad" (divorce, etc.) and when women find themselves widowed or "single again." The book includes lists of resources, budget worksheets, and a form to help gather information in anticipation of meeting with an attorney. Copies of *Your Money Matters* are available from the Women's Law Center of Maryland, (410) 321-8761 or see www.wlcmd.org.

Family Law Committee Update

The Committee on Family Law held meetings between November 2003 and January 2004. In addition to reviewing proposed forms changes and hearing subcommittee reports, the following action items were discussed.

Uniform CASA Order

The Maryland CASA Association proposed the use of a more comprehensive CASA Order. In reviewing the proposed order, the committee felt that courts should be able to specifically designate the types of records access that would be provided for individual CASAs. The use of a checklist was suggested. Rather than modify the proposed form the Maryland CASA Association opted to work with individual jurisdictions to improve the quality of the order being used.

Quality of Representation in Delinquency Proceedings

The committee was asked to review the study *Maryland: Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*. The committee was also asked to respond to a letter and series of recommendations made by public defender Stephen Harris, prepared in response to the study. The committee supported the recommendations made by the study but felt the methodology of the study was flawed, and many of its conclusions inaccurate. Committee Chair, the Honorable Nancy Davis-Loomis, and Juvenile Subcommittee Chair, Master Erica Wolfe, prepared a letter to Chief Judge Bell summarizing the committee's response.

Pro Se Program Best Practices

The committee reviewed a draft set of *Pro Se* Program Best Practices developed by a task force including *pro se* assistance providers and family support services coordinators, and staffed by the Department of Family Administration and the Maryland Legal Assistance Network. The committee felt that the document was not acceptable in its current form. Pamela Ortiz will work with Judges Kathleen Gallogly Cox, Sherrie Krauser and Emory Plitt to redraft the document for reconsideration at a later date.

Custody Subcommittee

The Custody Subcommittee drafted a survey of child counsel practices. The survey has been distributed to judges, masters, coordinators, other court personnel and attorneys around the state. Responses will be compiled to assist the committee in developing guidelines and standards for attorneys appointed to represent children in custody cases in Maryland. The Custody Subcommittee also jointly sponsored a symposium on Custody Decision-making in Maryland on December 9, 2003 [See "Making Good Choices for Children" on p. 1].

Child Support Subcommittee

The Child Support Subcommittee is exploring the idea of providing a training for special attorneys and prosecutors on the use of criminal non-support and criminal contempt in child support cases. At the time this article went to press, a January meeting was scheduled with representatives of the Attorney General's office and various practitioners to discuss the goal of the training and its possible components.

Juvenile Subcommittee

Master Erica Wolfe is now serving as Chair of the Juvenile Law Subcommittee. The subcommittee had its first meeting December 9, 2003 to review *Maryland: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* [mentioned above under Quality of Representation in Delinquency Proceedings Committee]. After discussion, the subcommittee forwarded their recommendations to the Committee on Family Law. Master Wolfe announced that the Foster Care Court Improvement Project's annual conference for 2004 will probably again be held in St. Michael's and will include a third day for delinquency. The Juvenile Law Subcommittee, with the assistance of others, will plan the delinquency track. The subcommittee also discussed HB 1091 and recommended that the automatic transfer of jurisdiction required by 3-8A-07(c) be repealed.

Foster Care Court Improvement Project (FCCIP) Update

During this past quarter, staff and some members of the Foster Care Court Improvement Project were very active in the federal Child and Family Services Review held during the latter part of November 2002. The FCCIP has begun to assist in the development of the Program Improvement Plan (PIP) for the state, which is due in March 2004.

Members and staff continued to work with the ABA Center on Children and the Law in the evaluation of the FCCIP. Hard copies of the evaluation report will be distributed to all juvenile judges and masters in March 2004. The report will also be available on the Judiciary website.

The FCCIP has also been engaged in the development of case time standards for the CINA and TPR cases. Recommendations regarding the case time standards will be forwarded to the Judicial Council in February 2004.

CINA Subcommittee. New TPR and adoption legislation, *Permanency for Families and Children Act of 2004*, was submitted as a part of the Judiciary's 2004 legislative package. The intent of the bill is to separate the TPR and adoption statute into three separate sections: DSS-Related TPR and Adoption Proceedings, voluntary agency guardianships and adoptions proceedings, and independent adoptions. This separation will afford judges, masters, practitioners, and others the ability to look in one section and chronologically follow the legal process for the type of proceeding in which they are involved.

Representation Subcommittee The Representation Subcommittee has been collaborating with the Office of the Public Defender and the *Pro Bono* Resource Center of Maryland in planning a state-wide training program for attorneys who have expressed an interest in representing parents in CINA and related proceedings in order to fulfill their *pro bono* requirements. The first training program is scheduled for April 2004. Attorneys interested in attending this training program should contact Althea R. Stewart Jones, Esq., Director of the FCCIP, at (410) 260-1296.

Statistics Subcommittee The Statistics Subcommittee continues to work with the Judicial

Information Systems (JIS) department of the AOC, as well as external vendors, in order to generate reliable statistics in CINA and related TPR and adoption cases. Each court has been sent a detailed list of data related to its open cases for review. All questions, comments or concerns regarding the cases should be forwarded to Temi Omisore, Database Support Technician for the FCCIP, no later than February 28, 2004.

Training Subcommittee The 2004 Judicial Institute Course entitled, *Aspects of a TPR Case and Guardianship Reviews*, is scheduled for April 1, 2004. The Honorable Martin P. Welch and Master Yolanda Tanner will be the instructors for the TPR portion of the program. The Honorable Kathleen Friedman and Master James Casey will be instructing the class on guardianship review hearings.

The next annual Child Abuse, Neglect, Delinquency Options (CANDO) Conference is scheduled for October 4-6, 2004 at the Harbortowne Inn and Conference Center. This three-day conference will again include a day dedicated to delinquency issues.

To reduce costs, this year's conference will *not* include a multi-disciplinary day for agency professionals or an attorney track. Agency professionals and attorneys are encouraged to take advantage of the Governor's Conference on Child Abuse and Neglect which is held each April and which includes training tracks for social work and legal professionals. FCCIP has tentative plans to host an attorney training event later in the year, and will continue working with agency and other child protection professionals through regional meetings and trainings. For more information on the conference, please contact Tracy Watkins-Tribbitt, FCCIP Assistant Director of the FCCIP, at (410) 260-1272.

TPR Workgroup. The FCCIP disseminated a Notice of Funding Availability to the courts, local departments of social services and the Department of Human Resources soliciting grant applications. Grants will be awarded to programs and/or projects that further the initiatives outlined in the 2001 *TPR Plan of Action Report*. The funding is to assist the courts in facilitating the pro-

Recent Family Law Decisions

Family Matters highlights recently reported decisions of the Maryland Court of Appeals and Court of Special Appeals that address family law issues. Copies of reported opinions are available at <http://www.courts.state.md.us/opinions.html>.

Court of Appeals

Custody

Frase v. Barnhart, No. 6, September Term 2003, filed December 11, 2003. Opinion by Wilner, J. Bell, C. J., Eldridge and Cathell, J. J., Concur.

Order was interlocutory and appealable where the court issued an order leaving the child who was the subject of a third-party custody petition in the care of his parent, but attached conditions to the order. The court had not made clear whether it intended its order to be final, and seemed to indicate that there would be further proceedings, therefore the decision was interlocutory.

It was procedurally impermissible for the court to make findings that would dictate a particular result and then subject the favored party to conditions inconsistent with that result, and to require subsequent review hearings, seemingly reserving the power to alter the custody arrangement at any time, even in the absence of new evidence. Imposition of the conditions was reversible error. The court distinguished CINA cases from custody cases in this regard.

Concurring Opinion: In the concurring opinion, Judge Cathell, joined by Chief Judge Bell and Judge Eldridge, takes the majority to task for failing to reach the issue of whether there is a constitutionally-protected right to counsel in these types of civil matters. The concurrence opines that it is the duty of the court to address the important question of whether “the poor receive equal treatment in a matter concerning the most basic of fundamental, and constitutional, rights—the matter of the custody, visitation, and control of children by their parents[?]” Judge Cathell further asserts that had the court reached the issue, he would have resolved that issue by holding “that in cases involving the fundamental right of parents to parent their children, especially when the parent is a defendant and not a plaintiff, counsel should be provided for those parents who lack independent means to retain private counsel.”

Delinquency

In re: Jason W., No. 23, September Term, 2003, filed December 5, 2003. Opinion by Wilner, J.

Education Article, §26-101(a) which makes it an offence to willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of [a school], requires an actual disturbance that significantly interferes with the school operation. That provision was not violated where a middle school student wrote “there is a bomb” on a school wall, and where the school did not perceive it as an actual threat.

Court of Special Appeals

Child Support

Malin v. Minenberg, No. 2520, Sept. Term, 2001, filed December 1, 2003. Opinion by Hollander, J.

Appellant husband was not voluntarily impoverished where he left the field of anesthesiology due to persistent substance abuse problems and where there was no evidence that he had changed careers to avoid his parental responsibilities. Judgment affirmed in part and vacated in part, and remanded. There is a limit on the extent to which a trial court can require parents to remain in the same career when to do so might jeopardize that parents’ health or liberty.

Superior Court of California v. Ricketts, No. 2677, September Term, 2001, filed December 1, 2003. Opinion by Hollander, J.

The trial court correctly declined to give full faith and credit to a California child support judgment where the father was not afforded due process in the judgments establishing support.

Goshorn v. Goshorn, No. 1424, Sept. Term, 2002, filed December 19, 2003. Opinion by Krauser, J.

Child support guidelines are applicable to “destitute adult children.” The court erred in not including the parties’ 18-year-old daughter with

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Recent Family Law Decisions, cont. from p. 12

Downs Syndrome in the calculation of child support, even though the daughter received SSI benefits. The court also erred in contradictorily finding that the daughter was both “destitute” and “self-supporting.”

Corby v. McCarthy, No. 37, September Term, 2003, filed December 30, 2003. Opinion by Hollander, J.

The trial court correctly applied the child support guidelines in calculating support for a “destitute adult child,” but erred in not including the cost of her housing and health insurance in the calculation. Judgment vacated and remanded. The court erred in requiring the appellant and her destitute adult child to reside together. If the court felt the adult child could not reside on her own, it should have considered the cost of alternative housing, such as a group home or other assisted living options.

Child in Need of Assistance

In re: Caya B., Nos. 1758, 2151, 2912, September Term, 2002, filed November 3, 2003. Opinion by Alpert, J.

The trial court abused its discretion when it declined to award visitation to the appellant where the court erroneously believed that it did not have the discretion to order visitation when awarding custody and guardianship of the child to a relative. The court can order visitation when awarding guardianship. In this case the court had expressed the opinion that visitation would be arranged “unofficially.” The court erred in delegating its responsibility for deciding visitation to the guardian. Judgment reversed and remanded.

Contempt

In re: Ariel G., No. 1570, September Term, 2002, filed December 10, 2003. Opinion by Salmon, J.

Court erred in holding a mother of a child found CINA in civil contempt for refusing to disclose her knowledge of the whereabouts of her child where the mother had pending criminal charges in a matter related to her child’s disappearance and where she was entitled to invoke her privilege against self-incrimination.

Divorce

Kelly v. Kelly, No. 658, September Term, 2002, filed November 25, 2003. Opinion by Salmon, J.

Trial court erred in granting use and possession of the family home beyond the date on which the child who will have already turned 18 graduates high school. Judgment remanded and trial court directed to enter an order terminating the use and possession order on the date the child graduates high school.

Trial court erred in not including an \$89,000 bonus earned by the husband after the parties separated as marital property in calculating the marital award. The court should take into consideration *all* factors in Family Law §8-205(b) in determining the amount of any marital award.

When indefinite alimony is denied and there is an income disparity comparable to those cases cited in *Lee v. Lee*, 148 Md. App. 432, 448-49 (2002), it is error to deny the request without explicitly discussing the disparity issue. Case remanded for reconsideration of appellant’s request for indefinite alimony.

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FCCIP Update, cont. from p. 11

cessing of CINA and related TPR and adoption cases, with an emphasis on eliminating barriers to timely permanency for children. Award letters will be forwarded in February 2004.

The TPR Court Coordinator of the FCCIP has been meeting regularly with the Permanency Planning Liaisons (PPLs). To date, there are a total of five PPLs throughout the state. The hiring of PPLs was noted in the CFSR report as a positive initiative in the state to assist in the timely processing of TPR cases. It is anticipated that the PPLs will play a significant role in the implementation of the state’s CFSR Program Improvement Plan.

Recent Family Law Decisions, cont. from p. 13

Ledvinka v. Ledvinka, No. 2900, Sept. Term, 2002, filed December 29, 2003. Opinion by Greene, J.

The only remedy available to a party seeking to dissolve his or her marriage on the basis of bigamy is an annulment. Void *ab initio* is no longer a statutory ground for an absolute divorce. The trial court erred in granting an absolute divorce rather than an annulment.

Grandparent Visitation

Herrick v. Wain, No. 15, September Term, 2003, filed December 19, 2003. Opinion by Sharer, J.

Family Law Article §9-102 which provides that the court may consider “reasonable visitation of a grandchild by a grandparent,” if the court finds it to be in the child’s best interest, is not *per se* unconstitutional, although it can be unconstitutionally applied. The trial court properly applied the statute in awarding visitation to the appellee grandmother. Judgment affirmed.

Termination of Parental Rights

In re: Adoption/Guardianship of Genara A., No. 246, September Term, 2003, filed October 29, 2003. Opinion by Eyler, Deborah S., J.

Notice to appellant was insufficient where the appellant was served personally and a copy of the petition and show cause order was sent to the Assistant Public Defender representing appellant in the CINA case regarding Joseph, a sibling who was also a subject of the petition, but where notice was not provided to a *different* Assistant Public Defender who had represented the appellant in the CINA case regarding Genara. The statute requires notice to the *particular* attorney who represented the appellant in the CINA case. It is not sufficient to send notice to another lawyer practicing in the same “firm” or to the “firm” generally. Judgment reversed and remanded.

A FAMILIAR FACE IN A NEW PLACE

Master Yolanda Tanner

Congratulations and welcome to the Circuit Court of Baltimore City’s newest juvenile master, Yolanda Tanner. Master Tanner is no stranger to the Court; she has served as the Supervising Attorney for the Baltimore City Department of Social Services since 1998, handling primarily Termination of Parental Rights (TPR) cases. She began as a staff attorney with the agency over nine years ago. Prior to her term at DSS, she worked at the Legal Aid Bureau handling Child in Need of Assistance (CINA) cases. A native Baltimorean, she attended law school at the University of Maryland.

Master Tanner is very excited about this most recent transition. She is looking forward to expanding her knowledge and expertise, and is anxious to experience the Court from a different aspect. While at DSS, Master Tanner was instrumental in spearheading the agency’s efforts to comply with the requirements of the Adoption and Safe Families Act (ASFA). ASFA was enacted to address the chronic problems within the child welfare system that prevented children from having a timely, safe, permanent environment in which to live. After ASFA was enacted, the Baltimore City Department of Social Services was suddenly required to move children and families toward permanency much more quickly. Master Tanner worked tirelessly to help the agency achieve this goal.

As she begins the newest phase of her career, Master Tanner has many expectations for herself. She hopes to serve the Court and the system by providing more justice for all youth, and has a special interest in addressing initiatives to help the at-risk youth population. The Department of Family Administration wishes Master Tanner well in her new role as juvenile master.



Master Yolanda Tanner

photo by Beverly Schulerbrandt

Around Maryland



BALTIMORE CITY

The Circuit Court for Baltimore City initiated a limited In-House Mediation program in September 2003. At present mediators are available nine hours per week for mediation in the courthouse. This allows masters to send parties to mediation directly from a scheduling conference, when it appears that the parties are in a settlement posture.

BALTIMORE COUNTY

Baltimore County Circuit Court has received a three-year-grant from the Department of Justice to support the newly-established Juvenile Drug Court. The grant will be used for treatment services, substance abuse screening and testing, and incentive funding.

Richard P. Abbott, formerly the court's DCM Coordinator, has been tapped to serve as the Family Law Administrator for the Circuit Court. Abbott began his new duties in January 2004.

KENT COUNTY

The Courthouse *Pro Se* Assistance Project now offers Spanish speaking *pro se* litigants the assistance of a Spanish interpreter twice per month during evening and daytime hours through an agreement with the Kent Family Center.

Kent County Circuit Court Family Services is sponsoring a Community Education Initiative entitled, "Providing Services to Children of Prisoners, Children of Hope." Arlene Lee, the developer and presenter, is the Executive Director of the Federal Resource Center for Children of Prisoners of the Child Welfare League of America, Inc. Multi-disciplinary professionals from surrounding communities who provide direct services to children whose parents are absent from their lives due to incarceration or substance abuse treatment will be invited to attend. Workshops will be held in February and March 2004, and will provide participants with 12 units of continuing education credit.

QUEEN ANNE'S COUNTY

Queen Anne's County Circuit Court has expanded their Family Law Assistance Clinic. The program has been expanded to every Monday afternoon from 1:30 to 4 PM and Wednesdays from 9 AM to noon.

ST. MARY'S COUNTY

Planning for St. Mary's Juvenile Drug Court has begun! In February the Juvenile Drug Court team, headed by Judge Marvin Kamnetz will be attending their first training provided by the Bureau of Justice Assistance at Atlanta, GA. This training will be followed by a training in Washington, DC and a third training in Boston, MA.

St. Mary's Child Welfare Day is scheduled for April 30, 2004. The topic is youth sex offenders.

Department of Family Administration

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February 18, 2004	Coordinators Meeting Annapolis, MD	Pam Ortiz (410) 260-1580
March 24 - 26, 2004	20 Hour Child Access Mediation Annapolis, MD	Jenn Keiser (410) 260-1580
April 15 - 17, 2004	ABA Section of Dispute Resolution, 6th Annual Resolution & Resilience in New York	(202) 662-1680
April 29, 2004	Governor's Conference on Child Abuse and Neglect, Baltimore, MD	Jody Andrade (410) 767-3526
April 30, 2004	St. Mary's Child Welfare Day, Leonardtown, MD	Linda Grove (301) 475-4689
May 4, 2004	The Second MACRO Family Mediation and Conflict Resolution Conference Rockville, MD	Gretchen Downey (410) 659-6730
May 15, 2004	AFCC 41 st Annual Conference Best Interests Revisited: Challenging our Assumptions San Antonio, TX	(608) 664-3750
May 18, 2004	Coordinators Meeting Annapolis, MD	Pam Ortiz (410) 260-1580
August 1-5, 2004	NCSEA 53 rd Annual Training Conference Palm Springs, CA	(202) 624-8180